

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	

REQUEST FOR EXTENSION OF TIME AND PETITION FOR WAIVER

Pursuant to Federal Communications Commission (Commission) Rule 1.3,¹ CenturyLink seeks relief from the Commission's rules to permit it to receive frozen high-cost universal service support -- all of which is derived from interstate access support (IAS) -- in New Jersey in the first quarter of 2013. Two days ago, CenturyLink was informed by the New Jersey Board of Public Utilities (NJBPU) staff that, due to lingering effects of Hurricane Sandy, the NJBPU will be unable to hold its scheduled November 16, 2012 public meeting and thus cannot take action on CenturyLink's petition requesting state certification of CenturyLink's high-cost support at that time. Instead, the NJBPU will do so at the public meeting that has been re-scheduled for November 20, 2012. Consequently, the NJBPU is unable to timely certify that CenturyLink is eligible for high-cost support in New Jersey (*i.e.*, by November 16, 2012).

CenturyLink requests that the Commission either (1) afford NJBPU additional time to complete the state certification, (2) waive the state certification requirement and accept CenturyLink's certification to the Commission regarding its use of high-cost support in New Jersey (as the Commission has in past years for IAS), or (3) provide relief in any other manner the Commission deems appropriate. CenturyLink has worked diligently to comply with the

¹ 47 C.F.R. § 1.3.

Commission's requirements for eligibility to receive high-cost support in 2013. The special circumstances of the devastating and lingering impacts of Hurricane Sandy, particularly in New Jersey, create good cause for the Commission to find that the public interest would be served by granting the requested relief.

BACKGROUND

In New Jersey, the only high-cost support that CenturyLink receives is IAS.² Previously states did not certify ETCs for IAS; instead the ETCs provided certifications directly to the Commission for that support.³ In the *USF/ICC Transformation Order*, however, the Commission eliminated the requirement that ETCs certify their use of IAS to the Commission.⁴ Instead, eligibility for frozen support derived from IAS is now subject to state certification.

² This support is received by United Telephone Company of New Jersey d/b/a CenturyLink.

³ 47 C.F.R. § 54.809 (see note 4, *infra*, regarding paragraph 614 of the *USF/ICC Transformation Order*).

⁴ See *In the Matter of Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform - Mobility Fund*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, 26 FCC Rcd 17663, 17862 ¶ 614 (rel. Nov. 18, 2011) (*USF/ICC Transformation Order*), *Order Clarifying Rules*, 27 FCC Rcd 605 (rel. Feb. 3, 2012) (*Clarification Order*), Erratum to *USF/ICC Transformation Order* (rel. Feb. 6, 2012), Application for Review pending, USCC, *et al.*, filed Mar. 5, 2012, *Further Clarification Order*, DA 12-298, 27 FCC Rcd 2142 (2012), Erratum to *Clarification Order* (rel. Mar. 30, 2012), Second Erratum to *USF/ICC Transformation Order*, DA 12-594 (rel. Apr. 16, 2012), *pets. for recon. granted in part and denied in part*, Second Order on Recon., FCC 12-47, 27 FCC Rcd 4648 (2012), *pet. for rev.*, *Windstream v. FCC* (10th Cir. No. 12-9575); Third Order on Recon., FCC 12-52, 27 FCC Rcd 5622 (2012), Erratum to *Second Order on Recon.* (rel. June 1, 2012), *Order Clarifying Rules*, DA 12-870, 27 FCC Rcd 5986 (2012), Erratum to *Order Clarifying Rules* (rel. June 12, 2012), Second Report and Order, FCC 12-70, 27 FCC Rcd 7856 (rel. June 27, 2012), Fourth Order on Recon., FCC 12-82, 27 FCC Rcd 8814 (2012), *Order Clarifying Rules*, DA 12-1155, 27 FCC Rcd 8141 (2012), Fifth Order on Recon., FCC 12-137, rel. Nov. 16, 2012, *pets. for rev. of USF/ICC Transformation Order pending, sub nom. In re: FCC 11-161* (10th Cir. No. 11-9900, Dec. 16, 2011).

Thus, the NJBPU needs to certify to the Commission that CenturyLink is eligible to receive support in New Jersey. On September 26, 2012, CenturyLink filed a petition and supporting affidavit with the NJBPU seeking that the NJBPU certify to the Commission and USAC that CenturyLink had used and would continue to use its high-cost support for the purposes intended.⁵

Consistent with the *Order* released by the Wireline Competition Bureau on September 17, 2012,⁶ the NJBPU took additional time to review CenturyLink's submission and set November 16, 2012 as the date for Board action on CenturyLink's petition. CenturyLink understands that the NJBPU staff have reviewed CenturyLink's petition and indicated that they would support our filing before the Commissioners of the NJBPU at the November 16, 2012 meeting. CenturyLink further understands that upon Board approval at a public meeting, the NJBPU would have certified that day to the Commission and USAC that CenturyLink is eligible to receive high-cost support in New Jersey. This would have enabled the NJBPU to meet the extended deadline provided in the Commission's September 17, 2012 *Order* for states to file their section 54.314 high-cost certifications.

On November 14, 2012, CenturyLink received word from NJBPU staff that the NJBPU Commissioners unfortunately have had to move the public meeting date from November 16, 2012 to November 20, 2012 due to the lingering effects of Hurricane Sandy. The NJBPU was closed October 29-31, 2012 under the state of emergency, and since then, NJBPU employees have been significantly hampered in traveling to work because of storm damage.⁷ The change in

⁵ See Attachment 1 to this Petition (reflecting CenturyLink's petition filed with the NJBPU and including CenturyLink's high-cost support affidavit for New Jersey without including the other exhibits to the petition).

⁶ See *Connect America Fund, ACS Wireless, Inc. Petition for Waiver of Section 54.313(j) of the Commission's Rules*, Order, WC Docket No. 10-90, DA 12-1503, rel. Sept. 17, 2012.

⁷ NJ Transit continues to work to return its rail lines to pre-Hurricane Sandy schedules. See, e.g., "Despite rails returning, commuters still sore over NJ Transit's Sandy response," The Star-

the date of the Board's public meeting means that the NJBPU will not be able to issue a decision on CenturyLink's petition or certify CenturyLink's use of high-cost support until next Tuesday, November 20, 2012. CenturyLink's petition is included on the NJBPU's November 20, 2012 Consent Agenda.⁸

REQUEST FOR RELIEF

Under these highly unusual and unexpected circumstances, CenturyLink requests that the Commission grant a brief extension of the November 16, 2012 deadline to November 21, 2012 so that the NJBPU can render a decision on CenturyLink's petition and file a certification with the Commission regarding CenturyLink's use of high-cost support in New Jersey in accord with its decision. Alternatively, CenturyLink requests that the Commission waive the requirement that NJBPU certify CenturyLink's use of high-cost support under Commission Rule 54.314⁹ in order for CenturyLink to receive its high-cost support in 2013, and instead accept CenturyLink's certification as to its use of high-cost support in New Jersey directly. As a third alternative, CenturyLink requests that the Commission authorize CenturyLink's receipt of high-cost support in New Jersey in 2013 through any other manner it deems appropriate.

Ledger, November 13, 2012 at http://mobile.nj.com/advnj/db_/contentdetail.htm?contentguid=CSp4jvK7&full=true#display; "Sandy More Destructive than 9/11 For NJ Commute", WBGO News, November 14, 2012 at <http://www.wbgo.org/newsarticle/sandy-more-destructive-than-911-for-nj-commute>; "More NJ Transit rail lines to resume Monday, 2 weeks after Sandy," The Star-Ledger, November 11, 2012 at http://mobile.nj.com/advnj/pm_29221/contentdetail.htm?contentguid=UphtiHVL.

⁸ See Attachment 2 to this Petition at IV.A. Anthony Centrella is the NJBPU contact regarding this Petition and the circumstances leading to the need for the filing of this Petition and his contact information is the following: Anthony Centrella, Director, Division of Telecommunications, New Jersey Board of Public Utilities, 44 South Clinton Avenue, 9th Floor, Post Office Box 350, Trenton, NJ 08625-0350, phone number 609-633-9740.

⁹ 47 C.F.R. § 54.314.

In accord with Commission Rule 1.3 the Commission may waive any of its regulations when good cause is demonstrated. To show good cause a carrier must demonstrate that (1) there are special circumstances warranting deviation from the general rule and (2) waiver will serve the public interest.¹⁰ There is good cause to grant this petition as special circumstances and the public interest impel the relief requested here.

Hurricane Sandy and its effects on the state of New Jersey and the operations of the NJBPU are special circumstances warranting deviation from the Commission's rules. The devastation that New Jersey experienced from Hurricane Sandy has been extensive and recovering from the superstorm has and continues to be a slow and difficult process.¹¹ And, granting the relief CenturyLink seeks will serve the public interest in that it will permit CenturyLink to receive and use high-cost support in a state that needs that very support more than ever. The Commission should not permit Hurricane Sandy to have the doubly devastating effect of not only inhibiting the NJBPU's ability to function effectively to serve its constituents, but also doing so in a manner that precludes additional support that should be available to sustain services to its constituents but for Hurricane Sandy.

¹⁰ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹¹ See, e.g., "Cost from Sandy into the billions, as thousands struggle, still, without power" CNN Wire Staff, November 13, 2012 at <http://www.cnn.com/2012/11/12/us/northeast-weather/>; "New Jersey Reels from Storm's Thrashing", New York Times, October 31, 2012 at <http://www.nytimes.com/2012/11/01/nyregion/new-jersey-continues-to-cope-with-hurricane-sandy.html?pagewanted=all&r=0>.

For these reasons CenturyLink respectfully requests that the Commission grant the relief requested.

Respectfully submitted,

CENTURYLINK

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Its Attorney

November 16, 2012

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

I/M/O THE PETITION OF UNITED
TELEPHONE COMPANY OF NEW JERSEY,
INC. D/B/A CENTURYLINK FOR
CERTIFICATION WITH REGARD TO USE
OF UNIVERSAL SERVICE SUPPORT

PETITION

BPU DOCKET NO.

PETITION FOR CERTIFICATION FOR 2013

TO THE HONORABLE NEW JERSEY BOARD OF PUBLIC UTILITIES:

United Telephone Company of New Jersey, Inc. d/b/a CenturyLink ("CenturyLink") hereby petitions the New Jersey Board of Public Utilities ("Board") to certify to the Federal Communications Commission ("FCC"), pursuant to Section 254(e) of the Telecommunications Act of 1996 (the "Act") and 47 C.F.R. §54.314, that CenturyLink's use of high-cost universal service support ("USS") funds is consistent with the purposes of such funds. This Petition is filed in order for CenturyLink to receive USS funds in 2013.

In support of this Petition, CenturyLink states the following:

1. CenturyLink is an incumbent local exchange carrier ("ILEC") providing telecommunications services to customers in portions of the following Counties in the State of New Jersey: Hunterdon, Sussex, Somerset, Morris, and Warren Counties. CenturyLink provides ILEC services to approximately 72,759 residential access lines and 41,670 business access lines.⁷ CenturyLink is a "rural telephone company" as defined under the Act, 47 USC §153 (37).

⁷ See, CenturyLink's 2011 Annual Report.

2. All correspondences, notices, inquiries and other communications regarding this Petition should be directed to:

Sue Benedek, Esquire
CenturyLink
240 North Third Street, Suite 300
Harrisburg, PA 17101
Phone: 717-245-6346
Fax: 717-236-1389
Email: sue.benedek@centurylink.com

3. The FCC's rules at 47 C.F.R. 54.314(a) require that, in order for CenturyLink to receive USS funds, the Board must file an annual certification with the USS Fund Administrator and the FCC stating that:

"all federal high-cost support provided to [CenturyLink] within [New Jersey] was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."

Pursuant to 47 C.F.R. §54.314(d), the Board's annual certification must be filed with the Fund Administrator by October 1, 2012 in order for CenturyLink to receive USS funding for 2013.

4. CenturyLink hereby submits to the Board as a result of the Federal Communications Commission ("FCC") recent ICC/USF order and related orders. Specifically, on November 18, 2011 the Federal Communications Commission ("FCC") released its *USF/ICC Transformation Order* in WC Docket No. 10-90 et al. With that Order, and subsequent clarification Orders, the FCC began a transition to a national framework for certification of Eligible Telecommunications Carriers ("ETCs") and set forth a standard set of information that all ETCs must file with the FCC and the relevant state commissions by July 1 of each year. The process culminates, pursuant to 47 C.F.R. § 54.314, with a required annual certification by state commissions, or self-certification in the case of federally designated ETCs, for the continued

receipt by ETCs of support from the federal high cost universal service program.

5. In New Jersey, CenturyLink has received federal support only from the Interstate Access Support ("IAS") portion of the federal high cost program. As a result, CenturyLink has certified, as required by 47 C.F.R. §54.809, its use of IAS directly to the FCC rather than the Board in past years.

6. Beginning in 2012, for federal price cap carriers such as CenturyLink, the FCC has frozen high cost support at the 2011 level and has combined all high cost programs into a single monthly support amount including IAS. In addition, the FCC eliminated the 47 C.F.R. §54.809 IAS certification requirement effective with its Transformation Order. Therefore, for 2012, the certification process for the continued receipt of federal high cost support for ETCs like CenturyLink that have not received funds subject to state certification is somewhat unclear.

7. Because continued receipt of these funds is important, pursuant 47 C.F.R. §54.314, CenturyLink is requesting that the Board certify by October 1, 2012 to the FCC that CenturyLink's IAS was used in the previous year and will be used in the coming year for the provision, maintenance, and upgrading of the facilities and services for which the support is intended.

8. Consistent with the Board's prior process for certification,⁸ CenturyLink hereby files the following information annexed to this Petition:

Exhibits A&B: Cost Support Response Form and supporting schedules of CenturyLink, prepared as of June 11, 2011 (schedules for 2012 pro forma and 2013 projected) [Exhibits A-1, A-2, Exhibits B-1, B-2 and B-3 are Confidential]

⁸ See, *I/M/O Petition of Warwick Valley Telephone Company for Certification with Regard to Use of Universal Service Support*, Docket No. TO01090575. Newspaper publication regarding this Petition, however, is not being requested.

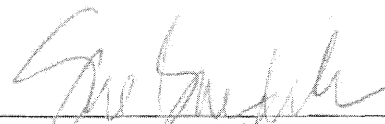
Exhibit C:

Affidavit of David D. Cole, Senior Vice President and Controller certifying that USS funds received by CenturyLink in the proceeding calendar years (2011 and 2012) have been and will be used for the purposes intended under the Act, and that use of USS funds in the coming year (2013) will be for the purposes intended under the Act.

WHEREFORE, CenturyLink requests the following relief of the Board:

1. Provide Certification to the USS Fund Administrator and the FCC, consistent with the provisions of 47 C.F.R. §54.314, that all federal high-cost support provided to CenturyLink within New Jersey was used in the proceeding calendar year and will be used in the coming calendar year (2013) only for the provision, maintenance, and upgrading of facilities and services for which the support is intended;
2. Issue the foregoing Certification to the USS Fund Administrator and cause the FCC to receive a copy no later than October 1, 2012; and
3. Grant such further receive as the Board deems reasonable and just.

Respectfully submitted,



Sue Benedek, Esquire
United Telephone Company of New Jersey,
Inc. d/b/a CenturyLink
240 North Third Street, Suite 300
Harrisburg, PA 17101
Phone: 717-245-6346
Fax: 717-236-1389
Email: sue.benedek@centurylink.com

Dated: September 26, 2012

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF NEW JERSEY

STATE OF LOUISIANA)
) ss.
PARISH OF OUACHITA)

AFFIDAVIT

I, David D. Cole, of lawful age and being duly sworn, state that I am presently Senior Vice President and Controller for CenturyLink, Inc. and an officer of United Telephone Company of New Jersey, Inc. d/b/a CenturyLink ("Company") and that I am authorized to give this affidavit on behalf of the Company.

United Telephone Company of New Jersey, Inc. d/b/a CenturyLink certifies that it will only use federal high-cost support funds it received during 2011, it is receiving and will receive in 2012, and will receive in 2013 for the provision, maintenance, and upgrading of facilities and services for which such support is intended.

FURTHER AFFIANT SAYETH NOT.

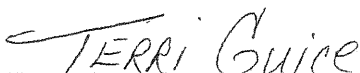


David D. Cole
Senior Vice President and Controller

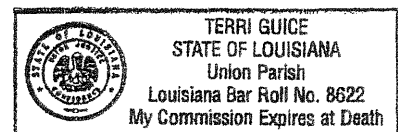
Subscribed to and sworn before me this 24th day of September, 2012.

 #8622

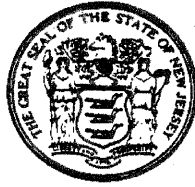
Notary Public



Printed Name of Notary



My Commission Expires: At Death



STATE OF NEW JERSEY
 Board of Public Utilities
 44 South Clinton Avenue, 9th Floor
 Post Office Box 350
 Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

**CONSENT AGENDA FOR BOARD MEETING
 TUESDAY, NOVEMBER 20, 2012
 10:00 a.m. – TRENTON
 State House Annex, Committee Room 11**

I. AUDITS

Energy Agent, Private Aggregator and/or Energy Consultant Initial Registrations

EE12090837L	Lightstar Energy Group LLC	I – EA
EE12070624L	Utility Resource Management Group, Inc.	I – EA
EE12040341L	Bradley R. Lewis	I – EA
EE12090840L	Summit Sales & Marketing, Inc.	I – EA
EE12030281L	Utilities Analyses, Inc.	I – EA
EE12080782L	Energy Choice, Inc. d/b/a Energy Choice DE Incorporated	I – EA
EE12090805L GE12090806L	ENelectros, LLC	I – EA/EC
EE12040321L GE12100972L	NY Power Company.com, Inc.	I – EA/EC

Electric Power and/or Natural Gas Supplier Initial Licenses

EE12080784L GE12080785L	ATCO Energy, LLC	I – EGSL
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II. ENERGY

NO ITEMS FOR CONSIDERATION

III. CABLE TELEVISION

- A.** Docket No. CE06110768 – In the Matter of the Application of Verizon New Jersey, Inc. for a System-wide Cable Television Franchise.
- B.** Docket No. CE12050456 – In the Matter of the Petition of Comcast of South Jersey, LLC for a Renewal Certificate of Approval to Continue to Construct, Operate and Maintain a Cable Television System in and for the City of Ventnor, County of Atlantic, State of New Jersey.

IV. TELECOMMUNICATIONS

- A.** Docket No. TO12090874 – In the Matter of the Petition of United Telephone Company of New Jersey, Inc. d/b/a CenturyLink for Certification with Regard to the Use of High Cost Support – Year 2013.
- B.** Docket No. TM12090852 – In the Matter of the Verified Joint Petition of Infotelecom, LLC and Broadvox-CLEC, LLC for Approval of a Sale of Assets and the Mass Migration of Customers.
- C.** Docket No. TM12090875 – In the Matter of the Application of Verizon New Jersey, Inc. for Approval of the Sale and Conveyance of Real Property Located in the Township of Voorhees, County of Camden, State of New Jersey to Jenstar of Voorhees, LLC.

V. WATER

NO ITEMS FOR CONSIDERATION

VI. RELIABILITY & SECURITY

NO ITEMS FOR CONSIDERATION

VII. CUSTOMER ASSISTANCE

- A.** Docket Nos. BPU EC12030239U and OAL PUC 05419-12 – In the Matter of Peter Triestman, Petitioner v. Public Service Electric and Gas Company, Respondent – Request for Extension.
- B.** Docket Nos. BPU EC10090656U and OAL PUC 13370-10 – In the Matter of Linda and Ron Taylor, Petitioners v. Atlantic City Electric Company, Respondent – Request for Extension.

VII. CUSTOMER ASSISTANCE (CONT'D)

- C.** Docket Nos. BPU GC10110839U and OAL PUC 2220-12 – In the Matter of Dodie Hogan, Petitioner v. New Jersey Natural Gas Company, Respondent – Request for Extension.
- D.** Docket Nos. BPU EC11070420U and OAL PUC 00397-12 – In the Matter of Dennis McKenzie, Petitioner v. Public Service Electric and Gas Company, Respondent – Request for Extension.
- E.** Docket Nos. BPU EC12020160U and OAL PUC 04672-12 – In the Matter of Deliverance Evangelistic Center, Inc., Petitioner v. Public Service Electric and Gas Company, Respondent – Request for Extension.

VIII. CLEAN ENERGY

NO ITEMS FOR CONSIDERATION

IX. MISCELLANEOUS

Approval of the Minutes of the Emergency Board Meeting of November 2, 2012.



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

AGENDA FOR BOARD MEETING
TUESDAY, NOVEMBER 20, 2012
10:00 a.m. – TRENTON
State House Annex, Committee Room 11

1. AUDITS

NO ITEMS FOR CONSIDERATION

2. ENERGY

- A.** Docket No. ER12060485 – In the Matter of the Provision of Basic Generation Service for the Period Beginning June 1, 2013.
- B.** Docket No. EO11090528 – In the Matter of the Petition of Rate Counsel Requesting a Board Order Directing Jersey Central Power & Light Company to File a Base Rate Case Petition and Establishing a Test Year of 2010 – Request for Extension.
- C.** Docket No. GM12100970 – In the Matter of the Petition of Cogen Technologies Linden Venture, L.P., Public Service Electric and Gas Company and Elizabethtown Gas Company for: 1) Motion for Protective Order and Exemption from Public Disclosure of Confidential Information; and 2) Approval of a Gas Service Agreement Between Cogen Technologies Linden Venture, L.P. and Public Service Electric and Gas Company and Elizabethtown Gas Company.

3. CABLE TELEVISION

NO ITEMS FOR CONSIDERATION

4. TELECOMMUNICATIONS

- A.** Docket No. TO09060446 – In the Matter of the Telephone Relay Service Contract – Request for Extension.

5. WATER

- A.** Docket No. WO12070659 – In the Matter of the Board's Investigation into Reliability Issues Related to New Jersey American's Swimming River Treatment Plant Pipe Bridge Failure – Request for Extension.

6. RELIABILITY & SECURITY

- A.** Non-Docketed Matter – In the Matter of Hurricane Sandy – Update.

7. CUSTOMER ASSISTANCE

- A.** Docket Nos. BPU EC12030211U and OAL PUC 07200-12 – In the Matter of Sheila Foushee, Petitioner v. Public Service Electric and Gas Company, Respondent – Billing Dispute.

8. CLEAN ENERGY

- A.** Docket No. EO11050314V – In the Matter of the Petition of Fishermen's Atlantic City Wind Farm, LLC for the Approval of the State Waters Project and Authorizing Offshore Wind Renewable Energy Certificates – Request for Extension.
- B.** In the Matter of the Clean Energy Program Authorization of Commercial and Industrial Program Energy Efficiency Incentives Exceeding \$300,000:
- Docket No. EO12100938V – Irvington Middle School
 - Docket No. EO12100937V – Irvington High School
 - Docket No. EO12100943V – New Jersey Transit Corporation
 - Docket No. EO12100944V – Verizon
 - Docket No. EO12100945V – Claridge House II Condominium Association.

8. CLEAN ENERGY (CONT'D)

- C.** Docket Nos. EO07030203 and EO11100631V – In the Matter of the Comprehensive Energy Efficiency and Renewable Energy Resource Analysis for the Years 2009-2012 – Six Month Extension and Revised 2012 Programs and Budgets and Initial 2013 Programs and Budgets.
- D.** Docket No. EO11050324V – In the Matter of the Comprehensive Energy Efficiency and Renewable Energy Resource Analysis for the Years 2014 through 2017 – Procedural Schedule.

9. MISCELLANEOUS

- A.** Docket No. AX12050465 – In the Matter of Procedures for Determining the Confidentiality of Submitted Information – Rule Proposal N.J.A.C. 14:1-12.1.